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APR 15 2005

TECHNOLOGY CENTER 3600

In re Application of
Mark E. Abdella et al
Application No. 10/026,670
Filed: December 21, 2001
For: REVERSIBLE DOOR HAVING
MORTISE HARDWARE

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on December 9, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that a Final office action was mailed June 4, 2004. No reply to the Final office action mailed June 4, 2004 has been received by the Office. The case was abandoned as of December 5, 2004 and a notice to that effect was mailed December 22, 2004.

Applicant states that Final office action of June 4, 2004 was never received and that the docket report does not indicate receiving the Final office action. In support of not receiving the office action applicant provides a copy of the docket records for mail received during the June 4, 2004 time period.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's firm with the due date at and around September 4, 2004. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirement (3) indicated above. A complete docket record with a copy of the list of all responses in the practitioner's office to which the action was sent with the due date at and around September 4, 2004 is required.

Petitioner's evidence of non-receipt of the Office action mailed June 4, 2004 is insufficient to withdraw the holding of abandonment, and the petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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SNM/jwk: 4/7/05